

DRAFT AS OF 3-13-15

**CERCLA Financial Assurance Sample Letter of Credit for Use in Connection with
Unilateral Administrative Orders**

NOTE: A letter of credit, as specified in the relevant unilateral administrative order, may be worded as follows, except that instructions in brackets should be replaced with the relevant information and the brackets deleted. Case teams should make sure that provisions in the letter of credit relating to EPA's ability to direct the deposit of funds guaranteed by the letter of credit into a standby trust fund are consistent with relevant provisions in the order.

[Letterhead of Issuing Institution]

IRREVOCABLE STANDBY LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: [insert number]

ISSUANCE DATE: [insert date]

MAXIMUM AMOUNT: \$[insert dollar amount]

APPLICANT:

[Insert name of PRP/Respondent]

[Insert contact person(s), title(s), and contact information (address, phone, email, etc.)]

TO:

U.S. Environmental Protection Agency Region [insert number]

c/o [insert appropriate Regional official such as "Superfund Division Director"]

[Insert contact information (address, phone, email, etc.)]

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. **[insert number]**, at the request and for the account of **[insert name of PRP/Respondent]** (the "Applicant"), in the amount of **[\$insert amount]** (the "Maximum Amount"). We hereby authorize you, the United States Environmental Protection Agency, to draw at sight on us, **[insert name of issuing institution]**, an aggregate amount equal to the Maximum Amount, to be deposited as described below, upon presentation of:

- (1) Your sight draft, bearing reference to this Letter of Credit No. **[insert number]** (which may, without limitation, be presented in the form attached hereto as Exhibit A); and
- (2) Your signed statement reading as follows: "I certify that the amount of the draft is

payable pursuant to that certain Unilateral Administrative Order, dated **[insert date]**, **[insert docket number]**, issued under the authority vested in the United States of America by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9606(a), applying to and binding upon **[insert name of PRP/Respondent]**, and relating to the **[insert site name [operable unit]]**.”

This letter of credit is effective as of **[insert issuance date]** and shall expire on **[insert date that is at least 1 year later]**, but such expiration date shall be automatically extended for a period of **[insert period of at least 1 year]** on **[insert date that is at least 1 year later]** and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and the Applicant by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall immediately thereupon be available for deposit into the standby trust fund as described below upon presentation of your sight draft for a period of at least 120 days after the date of receipt by both you and the Applicant of such notification, as shown on signed return receipts.

All notifications, requests, and demands required or permitted hereunder shall be given in writing, identify the **[insert site name [operable unit]]**, and provide a contact person (and contact information).

Multiple and partial draws on this letter of credit are expressly permitted, up to an aggregate amount not to exceed the Maximum Amount. Whenever this letter of credit is drawn on, under, and in compliance with the terms hereof, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund established by the Applicant in accordance with the Unilateral Administrative Order referenced above for the fulfillment of the Applicant’s obligations under that Order.

All banking and other charges under this letter of credit are for the account of the Applicant.

This letter of credit is subject to the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce.

Very Truly Yours,

Date: _____

By [signature]: _____

Printed name: _____

Title: _____

Address: _____

Contact information: _____

**Exhibit A - Form of Sight Draft
[EPA LETTERHEAD]**

SIGHT DRAFT

TO: **[Insert name of issuing institution]**
 [Insert name and title of contact person(s)]
 [Insert address]

RE: Letter of Credit No. **[insert number]**

DATE: **[Insert date on which draw is made]**

TIME: **[Insert time of day at which draw is made]**

This draft is drawn under your Irrevocable Standby Letter of Credit No. **[insert number]**. I certify that the amount of the draft is payable pursuant to that certain Unilateral Administrative Order, dated **[insert date]**, **[insert docket number]**, issued under the authority vested in the United States of America by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9606(a), applying to and binding upon **[insert name of PRP/Respondent]**, and relating to the **[insert site name [operable unit]]**. Pay to the standby trust fund, established by **[insert name of PRP/Respondent]** in accordance with the Unilateral Administrative Order referenced above for the fulfillment of **[insert name of PRP/Respondent]**'s obligations under that Order, the amount of \$**[insert dollar amount of draw]** or, if no amount certain is specified, the total balance remaining available under such Irrevocable Standby Letter of Credit.

Pay such amount as is specified in the immediately preceding paragraph **[insert “in accordance with payment instructions provided by the trustee of the standby trust fund” or, if available, “to the standby trust fund as follows: [insert specific standby trust fund wiring instructions and information: e.g., name of institution, ABA number, Attn: [point of contact and title], account number, reference number]”]**.

This Sight Draft has been duly executed by the undersigned, an authorized representative or agent of the United States Environmental Protection Agency, whose signature hereupon constitutes an endorsement.

By [signature]: _____
Printed name: _____
Title: _____
Address: _____
Contact information: _____